THE HON'BLE SRI JUSTICE K.C. BHANU

On Wednesday, the twenty first day of September

Two thousand and five.

W.P. NO. 13114 of 2005

Prof. P.Jayapal Reddy

…….Petitioner.

And

The Registrar of Mutually Aided Cooperation Societies/District Cooperative dOfficer, Karimnagar District, Collectorate Building, Karimanagar and another.

……Respondents.

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O R D E R:

This writ petition is filed by the petitioner for declaring the inaction of the 1st respondent in not discharging his statutory obligations for holding a general body meeting under Section 24(3) and 23(3) for appointment of an adhoc board for the purpose of conducting elections to the 2nd respondent-society as being illegal and contrary to the provisions of the Andhra Pradesh Mutually Aided Cooperative Societies Act, 1995 (for short 'the Act') and consequently direct the 1st respondent to forthwith conduct a general body meeting of the 2nd respondent-society by appointing an Adhoc Board for the purpose of conducting elections.

2) The facts of the case that are necessary to adjudicate in this writ petition are that the 2nd respondent-society has been registered as a 'mutually aided cooperative society' (for short 'MACS') under the provisions of the Act. The provisions of the Act govern the entire field with regard to mutually aided cooperative societies, their registration, constitution, management, conduct of affairs, regulation by the Registrar and other incidental and ancillary matters. The proposed byelaws are not contrary to the provisions thereof, the Registrar shall register the MACS and also its byelaws under the Act and the said byelaws provide the manner of conducting elections to the Board of Directors. Further, the Board of the 2nd respondent was mis-managing the affairs of the society and causing damage to its reputation, while so a large group of 1934 members out of total membership of 6008 of the 2nd respondent-society addressed a letter to the General Manager, representing the Board on 27.4.2005, to convene a requisitioned general body meeting for consideration and decision on the motion of no confidence proposed to be moved against all 15 Directors of the 2nd respondent-society. The petitioner further submitted a representation on 5.5.2005 on behalf of the requisition members informing the 1st respondent that the Board was obligated in law to convene the requisitioned meeting within 30 days. While several members of the 2nd respondent society gathered at the designated place on 27.5.2005 hoping that the proposed motion of no confidence against the Directors would not only be thoroughly discussed and debated but also would be put to vote in the manner that the election of Directors was done and it is relevant to note that on 27.5.2005, the said meeting was presided over and the minutes of the said meeting were signed by the person against whom the motion of no confidence was proposed by the requisitionists, which does not satisfy the mandatory requirements of law. Then the petitioner approached the respondents and submitted a representation on 1.6.2005, requesting the 1st respondent to discharge its statutory duties under Section 23(3) of the Act and conduct the general body meeting of the 2nd respondent within 30 days, but no action was taken on it. Hence the writ petition.

3) The 1st respondent filed counter affidavit denying the contentions raised in

the affidavit, *inter alia*, stating that all the members of the society would participate in the elections and elect the Directors. The requisitioned General Body Meeting was held on 27.5.2005 by the 2nd respondent society and elected the Directors and so the petitioner is not entitled to any relief sought in the writ petition.

4) The learned counsel for the petitioner contended that the Board of the 2nd respondent mis-managed the affairs of the 2nd respondent causing damage to the reputation and that on the representation dated 5.5.2005, the Board was obliged to convene the General Body Meeting and the Board was failed to exercise its discretion to convene its meeting. The 1st respondent can exercise the powers under Section 23(3) of the Act to convene the General Body meeting, but the Directors have not convened the General Body meeting in a democratic principle and hence he prays to allow the writ petition.

5) The learned Government Pleader for Co-operation contended that the General Body had unanimously rejected the proposed no confidence motion and no allegation was proved by the petitioner in the General Body meeting and as per the minutes of the meeting 3824 members attended out of 5481 eligible members have attended the meeting. Neither the petitioner nor other member forwarded any explanation to explain that no confidence motion shall be motive against the managing committee and hence there are no grounds to interfere with the impugned order, since there is no violation of any legal right of the petitioner. The petitioner along with 52 signatories filed a representation before the 1st respondent on 1.6.2005 on the mis-management by the Board of Directors.

6) On receipt of the no confidence motion notice from the petitioner among others, the Board of Directors of Mulkanoor Cooperative Rural Bank and Marketing Society Limited has convened requisition General Body meeting within thirty days from the date of notice i.e. 27.5.2005. The requisition of the General Body meeting that the motion of no confidence against all the 15

Directors of the 2nd respondent was mentioned in the first item in the agenda. The 2nd respondent society conducted the requisition General Body meeting on 27.5.2005, in the premises of the society. As per the minutes of the meeting, out of 5481 eligible members 3824 members were attended the meeting. The General Body unanimously rejected the proposed no confidence motion against all the fifteen Board of Directors and no allegation was proved by the petitioner in the requisition general body meeting. Thereafter, the petitioner approached the 1st respondent to discharge the statutory duties under Section 23(3) of the Act and the 1st respondent to convene General Body meeting of the 2nd respondent society within thirty days of the receipt of petitioner's request. Since the General Body was held on 27.5.2005 by the 2nd respondent society within thirty days of the requisition of the notice as per the byelaws, the question of discharging statutory duty under Section 24(3) of the Act, does not arise. In the General Body meeting held on 27.5.2005, it is stated that neither the petitioner nor any of the members have come forward with their suggestions and the proposal of no confidence motion was moved with all forged signatures. Therefore, the General Body resolved to reject the no confidence motion and it is further resolved to recover the expenditure from the petitioner and to take action for committing forged signatures.

7) The prayer in the writ petition is that the inaction of the 1st respondent in discharging his statutory obligations for holding a general body meeting under Section 24(3) and 23(3) of the Act, for appointment of an adhoc board for the purpose of conducting elections to the 2nd respondent society. Section 24 of the Act provides for the meeting of the General Body and the Board of Directors and the procedure to be followed thereat. Section 24(2) stipulates that on a requisition given by at least one-tenth members of the MACS, the Board shall convene a General Body meeting within thirty days of the receipt of the requisition. Failure to do so entails an automatic disqualification of all Directors under Section 21(6)(b). Section 23(3) of the Act specifies that in the event of a failure by the Board to convene the requisitioned General Body meeting within the due time, the Registrar shall convene a General Body meeting for appointing an Adhoc Board which would then conduct elections to the regular Board of Directors. As per the requisition given by the petitioner, the Board of Directors called to convene the General Body meeting, the question of the

Registrar exercising his power under Section 23(3) of the Act does not arise.

8) Therefore, the writ petition is devoid of merit and is dismissed. No order as to costs.

Justice K.C.BHANU.

_____ September 2005.

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